

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No. EB-02-PA-105
Amethyst International, Inc.)	
Point Pleasant Beach, New Jersey)	NAL/Acct. No. 200232400002
)	
)	FRN 0006-8162-01
)	

MEMORANDUM OPINION AND ORDER

Adopted: June 20, 2003

Released: June 24, 2003

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Memorandum Opinion and Order* (“Order”), we cancel the proposed monetary forfeiture in the amount of ten thousand dollars (\$10,000), issued to Amethyst International, Inc. (“Amethyst”) for its apparent willful violation of Section 301 of the Communications Act of 1934, as amended (“Act”).¹ However, we admonish Amethyst for the violation which caused harmful interference to the Coast Guard.

2. On June 5, 2002, the Commission’s Philadelphia, Pennsylvania, Field Office (“Philadelphia Office”) issued a *Notice of Apparent Liability for Forfeiture* (“NAL”)² to Amethyst in the amount of ten thousand dollars (\$10,000). Amethyst filed a response to the NAL on July 8, 2002.

II. BACKGROUND

3. On February 25, 2002, a Commission agent from the Philadelphia Office received a call from the United States Coast Guard advising him that a constant signal was being transmitted on VHF Marine Channel 16 (156.8 MHz). The signal, which had been on the air for approximately two hours, was causing harmful interference, affecting the ability of Coast Guard Stations Manasquan and Barnegat Light, New Jersey, to monitor channel 16 for transmissions from vessels in distress.

4. On February 25, 2002 at approximately 8:45 p.m., two agents from the Philadelphia office located the source of the signal transmitting on 156.8 MHz by using mobile direction finding techniques. The agents determined that the signal was emanating from the Beach Motel at 202 Arnold

¹ 47 U.S.C. § 301.

² *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200232400002 (Enf. Bur., Philadelphia Office, released June 5, 2002).

Avenue, Point Pleasant Beach, New Jersey. Inside the motel lobby, the agents discovered a Realistic MTX-100 marine radio and noted that it was transmitting on Marine Channel 16 (156.8 MHz). The microphone was wedged between the body of the radio and the counter, causing a constant signal. At approximately 9:00 p.m., Mr. John Fernicola, the owner of the motel, arrived. Mr. Fernicola disconnected and removed the radio. Mr. Fernicola acknowledged that neither he nor Amethyst had a license to operate a coast station in the Maritime Radio Service.

5. On February 26, 2002, the Philadelphia Office sent Amethyst a warning letter which explained that operation of the unlicensed marine coast station on frequency 156.8 MHz at the Beach Motel violated Section 301 of the Act. The letter also outlined the potential penalties for operating the unlicensed station, which included seizure of the equipment, fines, and imprisonment. On March 4, 2002, Amethyst submitted a response to the warning letter.

6. On June 5, 2002, the Philadelphia Office issued a *NAL* to Amethyst for its unlicensed operation of a marine coast station on VHF Marine Channel 16 (156.8 MHz) in violation of Section 301 of the Act. On July 8, 2002, Amethyst filed a response to the *NAL* in which it requests cancellation or reduction of the proposed forfeiture.

III. DISCUSSION

7. The forfeiture amount in this case was proposed in accordance with Section 503(b) of the Act,³ Section 1.80 of the Commission's Rules ("Rules"),⁴ and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999). In examining Amethyst's response, Section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁵

8. Section 301 of the Act sets forth the general mandate that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license. Further, Section 80.13 of the Rules requires that any land station operating in the Maritime Radio Service be licensed.⁶ On February 25, 2002, Amethyst operated a marine coast station on Marine Channel 16 (156.8 MHz) which adversely affected the Coast Guard's ability to monitor for transmissions from vessels in distress, and it did so without a license.

9. In its response, Amethyst states that, contrary to what is stated in the *NAL*, it did not admit responsibility or guilt in its response to the warning letter and that its response clearly denies any willful intent to violate the rules. In fact, Amethyst posits that this singular incidence of interference resulted from a purely accidental and inadvertent activation of the radio transmitter, that Amethyst did not

³ 47 U.S.C. § 503(b).

⁴ 47 C.F.R. § 1.80.

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶ 47 C.F.R. § 80.13.

install the equipment and that it did not even intend its presence at the Beach Motel. Amethyst also asserts that it has never authorized the use of the equipment by any employee for any purpose, that the equipment was in existence as found when Amethyst assumed operations of the Beach Motel, that it believed the power supply to the radio had been disconnected and that any operation of the equipment was impossible. Amethyst further asserts that it provides each front desk clerk and manager with a published set of rules specifically disallowing the use of cellular phones, personal communications equipment, radios or any other equipment other than the front desk switch board and reservation system. Additionally, Amethyst points out that there is no allegation that this was anything but a singular event or that the transmission alleged to have emanated from the Beach Motel contained any audible transmissions. Furthermore, Amethyst asserts that it immediately removed the equipment, that it has no prior history of violations with the FCC, and that the forfeiture amount is excessive. Finally, Amethyst states that it was never its intention to maintain a transmitter at this location for any purpose and that Amethyst's previous statement, that the equipment was for monitoring purposes only, reflected the inferences made by the two field agents about why the previous owner probably installed the equipment and that the statement did not represent Amethyst's purpose or motive in leaving the equipment as found.

10. After considering the totality of Amethyst's response to the *NAL*, specifically the good faith steps taken by Amethyst to ensure that the radio was not used, we believe that cancellation of the forfeiture is appropriate. Nevertheless, we find that it is also appropriate to admonish Amethyst for its violation of Section 301 of the Act, which caused harmful interference to Coast Guard operations.

IV. ORDERING CLAUSES

11. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 0.111, 0.311, and 1.80(f)(4) of the Rules,⁷ the forfeiture in the amount of ten thousand dollars (\$10,000) proposed in the June 5, 2002 *NAL* issued to Amethyst International, Inc. **IS CANCELLED**.

12. **IT IS FURTHER ORDERED** that Amethyst **IS ADMONISHED** for its unlicensed operation of a marine coast station on VHF Marine Channel 16 (156.8 MHz) from the Beach Motel in Point Pleasant Beach, New Jersey on February 25, 2002, which caused harmful interference to the Coast Guard.

13. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by first class and Certified Mail Return Receipt Requested to Amethyst International, Inc., 202 Arnold Avenue, Point Pleasant Beach, New Jersey 08742.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).